

clearance space, but state that it would be a mere reversal of parts to provide a clearance space for a positive image fork such as Applicant's member 10 versus a bifurcated clearance for receiving a spaced apart fork as taught by Shuert."

The application of the reversal of parts doctrine is discussed in MPEP §2144.04 and relies on In re Gazda, 210 F.2d 449, 104 U.S.P.Q. 400 (CCPA 1955) (Prior art disclosed a clock fixed to the stationary steering wheel column of an automobile while the gear for winding the clock moves with steering wheel; mere reversal of such movement, so the clock moves with the wheel, was held to be an obvious expedient).

The Office Action incorrectly applies the reversal of parts doctrine. The Shuert reference shows a plastic molded pallet configuration in Figure 1 which has nine legs with two skids **50** of a fork lift about to pass through indentations **42,44** between some of the legs on face **40**. A simple illustration is provided below where 1-9 represent the legs between skid indentations **42-48** and the lines represent the fork lift skids **50**:

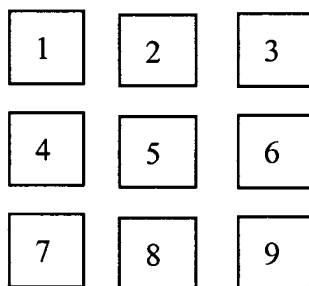
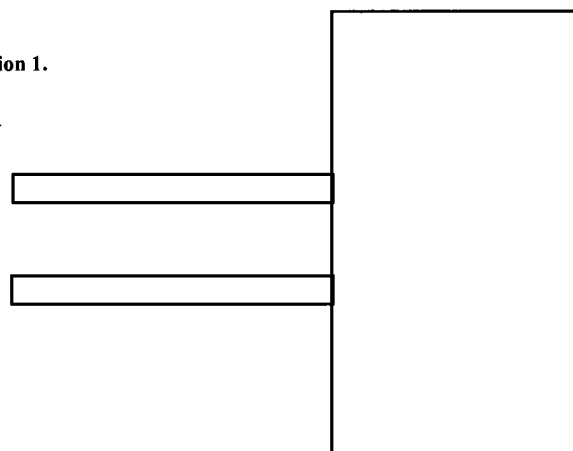


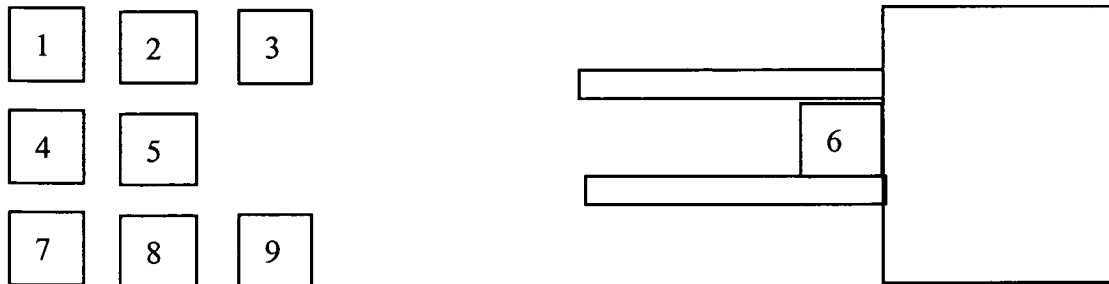
Illustration 1.



The Office Action states that it would be a "mere reversal of parts" to provide a

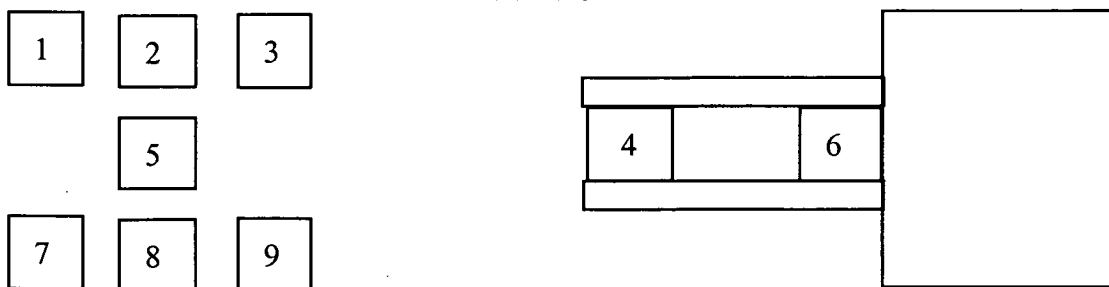
clearance space for a positive image type fork such as Applicant's member 10:

Illustration 2.



There is no teaching or suggestion for this modification. Furthermore, leg number 4 is still in the required clearance space. Unlike in the cited case of In re Gazda, 104 USPQ 400 (CCPA 1955) where the claimed elements were present in the cited reference, only connected to different members, there is no suggestion in the Shuert reference to remove leg number 6 to provide the required clearance space. In fact, in order for there to be a “reversal of parts” providing the claimed clearance space, leg number 4 would also need to be removed and connected to the fork lift skids 50. Only by moving both legs 4 and 6 can the required clearance space be created under the Shuert pallet. This complete reversal of parts is shown in Illustration 3.

Illustration 3.



The configuration of Illustration 3 is not operable since leg number 4 prevents the fork

lift skids from progressing past central support leg number 5. Therefore, if a reversal of parts were suggested, it would create either an unworkable configuration as shown in Illustration 3, or if only partially implemented as shown in Illustration 2, it would not disclose the claimed invention.

Apart from the inoperability of a reversal of parts as shown in Illustration 3, with the removal of legs 4 and 6, the Shuert pallet would tend to deflect downwardly under load at these points. Thus there would be a sag between legs 3 and 8 and between legs 1 and 7. Unlike the double wall construction of the perimeter of the pallet of the claimed invention, see reference numeral 128 in Figures 5 and 6, the Shuert pallet relies upon the three legs along each perimeter to minimize the sagging. The sagging perimeter between legs 3 and 9 would likely render futile any attempt to insert the legs 4 or 6 (as connected to the fork lift tines in Illustrations 2 and 3) underneath the Shuert pallet, since the legs 4,6 would strike the sagging perimeter of the deck of the pallet. The lack of a rigid, reinforced perimeter structure in the Shuert pallet therefore teaches away from any reversal of parts.

The Applicant submits that the “reversal of parts” doctrine is not applicable in the present case, for reasons similar to its inapplicability in Ex parte Giles, 228 USPQ 866 (Bd. Pat. App. & Int. 1985) where a one part plate in the prior art reference had to be transformed in the rejection into a two part plate and one of the two parts then reversed with another element to arrive at the claimed invention. The Board held that this was an improper application of the reversal of parts doctrine and reversed the examiner’s rejection of the claim.

In a similar manner, the one piece molded pallet of Shuert is transformed into a deck supported by nine legs. For an operable reversal of parts, it is then necessary to remove two of

the legs (to form the required clearance space), yet only one of the removed legs may be connected to the fork lift skids to arrive at a functional structure. As with the Giles case, a unitary component (here the molded Shuert pallet) is being divided into separate parts (here legs and a deck) and selected parts are being “reversed”. There is no teaching of removeable legs for pallets in this art, and only Applicant’s disclosure and not the prior art provides a motive for achieving the combination claimed in the claims. Furthermore, even if a reversal were suggested, as shown in Illustration 3 above, connection of both of the removed legs to the skids 50 results in a non-working arrangement. Accordingly, it is submitted that there is no teaching in the cited references for a “mere reversal of parts” that could result in the claimed invention.

#### **SUMMARY**

As amended in the response of February 6, 2001, claims 1-24 require a clearance space below the deck between the legs (rails) with the one exception of the central support which is located in about the center of the deck. None of the cited references contain this structure or suggest that it would be obvious to one skilled in the art, either directly or by a reversal of parts.

Accordingly, claims 1-24 are believed to be allowable, and such favorable action is respectfully requested.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C., 20231, on this 19<sup>th</sup> day of July, 2001.

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